

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 555 of 1996

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements ? NO

2. To be referred to the Reporter or not? NO

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3. Whether Their Lordships wish to see the fair copy of the judgement? NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder ? NO

5. Whether it is to be circulated to the Civil Judge? NO

MOHANBHAI P PATEL

Versus

VADILAL SARABHAI GENERAL HOSPITAL

Appearance:

MR KS ACHARYA for Petitioner (absent)

M/S ANAND ADVOCATES for Respondent No. 1

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 12/07/96

ORAL JUDGEMENT

Petitioner here is an X-Ray Technician employed under the Respondent-Corporation. Petitioner has relied

upon a resolution passed by the Corporation in its meeting held on 24th July, 1983. Under the said resolution, it was resolved that, "the meeting principally accepts to give the designation of Radiographer to the designation of X-Ray Technicians from among the X-Ray Technicians who are Inter-Science and have undergone one year's X-Ray Technician's Course and who have 15 years experience in this institution or who may be B.Sc., and have undergone one year's X-Ray Technician's Course and have 10 years experience in this institution as X-Ray Technician." It was further decided that "since the Arbitrator has been appointed for Corporation and other institutions affiliated to it, the X-Ray Technicians shall have to submit their demand for grade before the Arbitrator at the proper time." Petitioner has demanded that pursuant to the said resolution passed on 24th July, 1983, petitioner has been designated as Radiographer, however, he has not been awarded scale of Rs. 2000-3000, as was required to be given under the said resolution.

In response to the notice issued by this Court, the Corporation has appeared through the learned advocate Mr. M.R Anand and had filed its counter-affidavit made by the Secretary, V.S General Hospital. It has been stated that the matter of awarding the scale was left to the Arbitrator and the Arbitrator considering the relevant factors had recommended the scale of Rs. 1400-2300 to those who were then receiving their pay in the scale of Rs. 425-700. Petitioner and other similarly situated persons are accordingly paid salary in the scale of Rs. 1400-2300. The arbitrator has not awarded higher pay to X-Ray Technicians who were redesignated as Radiographers. Upon further inquiry, the learned advocate Mr. Anand has stated that there are no post of Radiographer under the Corporation and it appears that the claim made by the petitioner for the scale of Rs. 2000-3000 is based on the similar scale given by the Government to the Radiographers, appointed under the Government. Therefore, the question of payment of any higher salary to the petitioner, who is designated as Radiographer, does not arise. Further, petitioner has filed this petition in the year 1996 seeking enforcement of the resolution passed in the year 1983. This petition is thus grossly delayed more so, since 1983 there has been pay revision w.e.f 1.1.1986.

In the aforesaid premises, this petition deserves to be dismissed. Petition is accordingly dismissed in limine. Notice discharged. There shall be no order as to costs.

(Ms. R.M Doshit, J.)

Prakash*